IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
THURSDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY
and
THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT APPEAL NO : 294 of 2002

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 05/12/2001 in WP NO : 19695 OF 1996 on the file of the High Court.)

Between:

1 Gorantla China Veera Raghavaiah, S/o. Seshaiah,
Kakanipalem, Addanki,
Prakasam District.
2 Gorantla Kalyana Chakravarthi, S/o.China Veera Raghavaiah,
Kakanipalem, Addanki,
Prakasam District.

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APPELLANTS

AND

1 The District Collector, Prakasam District, Ongole.
2 The Mandal Revenue Officer, Addanki Mandal,
Addanki, Prakasam District.
3 The Deputy Commissioner of Endowments, Guntur.
4 The Executive Officer (Temples), Addanki,
Prakasam District.
5 The Executive Officer, Grampanchayat, Addanki,
Prakasam District.
6 V.Prabhakar Rao, S/o. Satyanarayana,
R/o.Addanki, Prakasam Dist
7 M.Venkateswarlu, S/o. Chenchaiah,
R/o.Sankarapuram, Addanki, Prakasam District.

.....RESPONDENTS

For the Appellant: Mr. M.S.N. Prasad, Advocate.

For Respondent Nos.1 to 3: Government Pleader for Revenue.

For Respondent No. 4: Mr. M.N. Narasimha Reddy, Advocate.

For Respondent Nos. 6 and 7: Mr. Ch. Lakshminarayana, Advocate.

For Respondent No. 5: None appeared.

The Court made the following Judgment: (per BRSR, J)

The unsuccessful petitioners in Writ Petition No. 19695 of 1996 are the appellants in this writ appeal. The appellants two in number obtained assignment of government land total admeasuring six cents comprised in Sy.No. 1038 of North Addanki on payment of market value. It is also their case that after the said purchase, they have raised structures in the said site after obtaining permission from the Gram Panchayat and they continue to be in possession of the same. That all of a sudden, the respondents in the month of September, 1996 demolished the structures on the ground that the appellants have alienated the property in contravention of the assignment made in their favour.

That a counter affidavit has been filed by the respondents in which it is inter alia stated that the appellants have alienated the lands in question to third parties who in turn have set up bunks not only in the site purchased by the appellants but also on the road margin causing inconvenience to the public. It is under those circumstances, Roads and Buildings authorities demolished the unauthorized structures set up in the road margin including the unauthorized structures in the alienated site.

Having regard to the nature of controversy, this Court by its order dated 13.10.1997 directed the Mandal Revenue Officer to conduct an enquiry and submit a report to this Court as to whether the structures raised by the appellants herein were demolished by the Roads and Buildings Department while removing the unauthorized

structures on the road margin. The Mandal Revenue Officer, Addanki vide report dated 31.12.1997 submitted to this Court stated that at the time the premises was inspected by him there were no resemblances of any structures demolished by the Roads and Buildings Department in the site in question. The structures situated in the permitted site and the encroachments thereon were demolished by the Roads and Buildings Department. The estimated costs of damage to the structures belonging to the appellants comes to an extent of Rs.70,000/-.

The grant of assignments on payment of market value in favour of the appellants is not in dispute. It appears that the appellants have sold some extent of the land out of the land assigned in their favour on payment of market value. Those purchasers in turn appear to have raised some structures partly encroaching on the road margin. The Roads and Buildings Department with a view to demolish that encroached portion and with a view to widen the existing road appears to have initiated some action. The case of the appellants is that in the process of demolishing those encroached portions, the structures raised by them after obtaining due permission from the Panchayat were also removed without any authority of law. The Mandal Revenue Officer's report to some extent supports the allegations levelled by the appellants in this regard. The Mandal Revenue Officer in his report intere alia stated that damage has been caused to the structures raised by the appellants in the process of demolition of the unauthorized structures raised by the purchasers of a portion of the land from the appellants.

Be that as it may, the respondents without any authority of law and without putting the appellants on notice could not have pulled down the structures raised by them resulting in loss and damage. The question that falls for consideration is as to what relief could be granted to the appellants at this stage?

That the remaining vacant site as it stands on this day assigned in favour of the appellants herein on payment of market value cannot be allowed to be taken over by the respondents. The appellants are entitled to retain the possession of the same, of course not the land sold by them in favour of strangers. The respondents are directed not to interfere with the possession of the vacant site which the appellants obtained from the respondents on payment of market value. That so far as the damage suffered by the appellants on account of the demolition by the Roads and Buildings Department is concerned, this Court in this summary proceedings cannot make any assessment of the damage suffered by the appellants nor can totally and safely rely upon the report submitted by the Mandal Revenue Officer as to the quantum of damage suffered by them. Therefore, liberty is given to the appellants to initiate appropriate proceedings as against the respondents for recovery of damages towards the loss and damages sustained by them on account of the highhanded and illegal action of the Roads and Buildings Department. It is needless to observe that the appellants shall be entitled to lead evidence in support of their claim for grant of damages and establish the actual quantum of loss suffered by them and the proceedings in this regard, if any initiated by the appellants shall go on in accordance with law uninfluenced by any of the observations made in this order.

The Writ Appeal is accordingly disposed of modifying the order passed by the learned single Judge to the effect that the appellants are entitled to continue in possession of the remaining site and the respondents shall not interfere with such possession and enjoyment of the site by the appellants. The rest of the claim of the appellants is required to be established in a properly constituted proceeding. There shall be no order as to costs.

(B. Sudershan Reddy, J)

24.06.2004

(Ghulam Mohammed, J)

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DEPUTY REGISTRAR

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SECTION OFFICER

To

1 The District Collector, Prakasam District, Ongole.
2 The Mandal Revenue Officer, Addanki Mandal, Addanki, Prakasam District.
3 The Deputy Commissioner of Endowments, Guntur.
4 The Executive Officer (Temples), Addanki, Prakasam District.
5 The Executive Officer, Grampanchayat, Addanki, Prakasam District.
6 2 CCs to the Government Pleader for Revenue, High Court Buildings, High Court of A.P., Hyderabad (OUT).
7 2 CD copies.